THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION No. 3109 of 2006

Between:

M/s.Elite Enfab Private Limited and another

..... PETITIONER

AND

The Mandal Revenue Officer and others

.....RESPONDENTS

ORDER:

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This writ petition is filed seeking a declaration that the action of the first respondent in issuing the proceedings, dated 12.12.2005, proposing to demolish the construction made by the petitioners in an extent of Ac.4.12 guntas in Sy.No.126-B of Pagulaguda village, Yemnampet Panchayat, Ghatkesar Mandal, Ranga Reddy District, as illegal and arbitrary and a consequential direction to the respondents not to take coercive steps against the petitioners in respect of the land in question.

It is the case of the first petitioner that he purchased the above said extent of land from the second petitioner through a registered sale deed, dated 26.05.2005. Subsequently, a rectification deed was executed by the wife of the second petitioner cancelling the earlier registration to an extent of Acs.2.10 guntas. It is stated that thereafter the first petitioner obtained permission from the Gram Panchayat, Yamnampet and constructed sheds and factory in the property in question. While the

matter stood thus, the first respondent issued a show cause notice, dated 12.12.2005, to one Nakka Satyanarayana, who is the vendor of the second petitioner, asking him to show cause as to why action should not be taken against him, for the alleged contravention of the provisions of Sub-Section (2) of Section 3 of the A.P. Assigned Lands (Prohibition of transfers) Act, 1977 (for short 'the Act'). As against the same, an appeal was preferred to the Revenue Divisional Officer on 16.02.2006 stating that an extent of Acs.4.12 guntas of Sy.No.126/B was purchased by the second petitioner from Satyanarayana in the year 1994 and his name was also recorded in the revenue records and thereafter an extent of Acs.2.10 guntas was purchased by the first petitioner from the second petitioner on 12.12.2005 and therefore, it is not correct to say that the said land is assigned land. Now the case of the petitioners is that if the property in question is assigned one, they are prepared to pay the market price for the same.

It is brought to the notice of this Court that as per the proceedings, dated 10.10.1994, of the Mandal Revenue Officer, the names of the petitioners have been mutated in the revenue records and they have taken necessary connections from the Electricity Department and have been in possession and enjoyment of the same.

As contemplated under Section 3(1)(2) of the Act, any transfer or acquisition made in contravention of the provisions of Sub-Section (1) of Section 2 shall be deemed to be null and void. Therefore, the only question that arises for consideration is as to whether the land in question is an assigned land and whether the said land has been transferred/purchased by the petitioners contrary to the provisions of Section 3(1)(2) of the Act.

Without going into the merits of the case, I am of the opinion that if the land in question is the assigned one, the proceedings issued by the revenue authorities mutating the names of the petitioners will not create any right over them.

Having regard to the facts and circumstances of the case, the writ petition is disposed of, directing the petitioners to file an explanation to the show-cause notice, dated 12.12.2005, within one week from the date of receipt of a copy of this order. On receipt of such explanation, the first respondent shall consider the same and pass appropriate orders in accordance with law. Till then, the petitioners may not be dispossessed from the property in question.

20.02.2006